

**IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.)	
)	
Plaintiff)	
v.)	Case No. PJM 08 cv 0921
)	
WORLD AVENUE USA, LLC, et al.)	
)	
Defendants)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court's April 29, 2009 Scheduling Order, as amended, Plaintiff BEYOND SYSTEMS, INC. ("BSI") and Defendants WORLD AVENUE USA, LLC ("WAUSA"), and WORLD AVENUE HOLDINGS, LLC ("Holdings") hereby submit their Joint Status Report:

1. Whether Discovery Has Been Completed.

Discovery has not been completed. Although some depositions have been taken, both parties anticipate further taking of depositions and third party discovery. There are also pending Interrogatories and Requests for Production of Documents.

The parties anticipate that the scope of the discovery will be impacted by one or more rulings at the upcoming November 29, 2010 hearing and will work together to arrive at a suitable schedule for the completion of discovery based on the rulings at that hearing

2. Whether Any Motions Are Pending.

A. The following Motions are pending by Defendants:

04/15/2009	<u>55</u>	MOTION to Dismiss for Lack of Jurisdiction <i>and Partial Motion to Dismiss on the Grounds that the Claims are Barred by the Statute of Limitations</i> by World Avenue Holdings Responses due by 5/4/2009 (Attachments: # <u>1</u> Exhibit Memorandum of Points
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		and Authroities, # 2 Exhibit 1, # 3 Text of Proposed Order)(Saunders, Sanford) (Entered: 04/15/2009)
05/04/2010	218	RESPONSE in Opposition re 214 MOTION <i>for Determination and Sufficiency of Plaintiff's Initial Expert Disclosures, and/or for Extension of Time And Cross-Motion to Exclude Plaintiff's Expert Witnesses</i> filed by World Avenue Holdings, World Avenue USA, LLC. Replies due by 5/21/2010. (Attachments: # 1 Exhibit)(McManus, John) (Entered: 05/04/2010)
05/11/2010	227	RESPONSE in Opposition re 215 MOTION for Extension of Time to File <i>Service of Summons and Request for Re-Issuance of Summons to Defendant Niuniu Ji And Cross-Motion To Dismiss For Lack of Service of Process and Failure to Prosecute</i> filed by Niuniu Ji, World Avenue Holdings, World Avenue USA, LLC. Replies due by 5/28/2010. (McManus, John) (Entered: 05/11/2010)
06/11/2010	266	MOTION for Partial Summary Judgment by World Avenue USA, LLC Responses due by 6/28/2010 (Attachments: # 1 Supplement Memorandum, # 2 Exhibit Saunders Declaration, # 3 Exhibit Saunders Exhibit 1, # 4 Exhibit Saunders Exhibit 2, # 5 Exhibit Saunders Exhibit 3, # 6 Exhibit Saunders Exhibit 4, # 7 Exhibit Saunders Exhibit 5, # 8 Exhibit Saunders Exhibit 6, # 9 Exhibit Saunders Exhibit 7, # 10 Exhibit Saunders Exhibit 8, # 11 Exhibit Saunders Exhibit 9, # 12 Exhibit Saunders Exhibit 10, # 13 Exhibit Saunders Exhibit 11, # 14 Exhibit Saunders Exhibit 12, # 15 Exhibit Saunders Exhibit 13, # 16 Exhibit Saunders Exhibit 14, # 17 Exhibit Saunders Exhibit 15, # 18 Exhibit Przygodzki Declaration, # 19 Exhibit Przygodzki Exhibit 1, # 20 Exhibit Krawetz Declaration, # 21 Exhibit Krawetz Exhibit 1, # 22 Exhibit Krawetz Exhibit 2, # 23 Exhibit Krawetz Exhibit 3, # 24 Exhibit Krawetz Exhibit 4, # 25 Exhibit Krawetz Exhibit 5, # 26 Exhibit Krawetz Exhibit 6, # 27 Exhibit Krawetz Exhibit 7, # 28 Exhibit Krawetz Exhibit 8, # 29 Exhibit Krawetz Exhibit 9, # 30 Exhibit Krawetz Exhibit 10, # 31 Exhibit Krawetz Exhibit 11, # 32 Exhibit Krawetz Exhibit 12, # 33 Exhibit Krawetz Exhibit 13, # 34 Exhibit Krawetz Exhibit 14, # 35 Exhibit Krawetz Exhibit 15, # 36 Exhibit Krawetz Exhibit 16, # 37 Exhibit Krawetz Exhibit 17, # 38 Exhibit Krawetz Exhibit 18, # 39 Exhibit Krawetz Exhibit 19, # 40 Exhibit Krawetz Exhibit 20, # 41 Exhibit Krawetz Exhibit 21, # 42 Exhibit Krawetz Exhibit 22, # 43 Exhibit Krawetz Exhibit 23, # 44 Exhibit Krawetz Exhibit 24, # 45 Exhibit Krawetz Exhibit 25, # 46 Exhibit Krawetz Exhibit 26, # 47 Exhibit Krawetz Exhibit 27, # 48 Exhibit Krawetz Exhibit 28, # 49 Exhibit Krawetz Exhibit 29, # 50 Exhibit Church Declaration, # 51 Exhibit Levin Declaration, # 52 Exhibit Paul Wagner Deposition, # 53 Exhibit Burton Deposition, # 54 Exhibit William Wagner Deposition, # 55 Text of Proposed

		Order)(Saunders, Sanford) (Entered: 06/11/2010)
06/23/2010	297	Local Rule 104(7). (Attachments: # 1 Exhibit Motion to Compel, # 2 Exhibit Memorandum of Law In Support, # 3 Exhibit Memo Ex. 1, # 4 Exhibit Memo Ex. 2, # 5 Exhibit Memo Ex. 3, # 6 Exhibit Opposition to Motion to Compel, # 7 Exhibit Opposition Ex 1, # 8 Exhibit Opposition Ex 2, # 9 Exhibit Opposition Ex 3, # 10 Exhibit Opposition Ex 4, # 11 Exhibit Opposition Ex 5, # 12 Exhibit Opposition Ex 6, # 13 Exhibit Opposition Ex 7, # 14 Exhibit Opposition Ex 8)(Saunders, Sanford) Modified on 6/25/2010 (rank, Deputy Clerk).(Hard Copy rec'd 6/25/2010 rk) (Entered: 06/23/2010)
07/06/2010	323	MOTION to Dismiss <i>for Fraud on the Court</i> by World Avenue USA, LLC Responses due by 7/23/2010 (Attachments: # 1 Exhibit Memorandum of Points and Authorities, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5, # 7 Exhibit 6, # 8 Exhibit 7, # 9 Exhibit 8, # 10 Exhibit 9, # 11 Exhibit 10, # 12 Exhibit 11, # 13 Exhibit 12, # 14 Exhibit 13, # 15 Exhibit 14, # 16 Exhibit 15, # 17 Exhibit 16, # 18 Exhibit 17, # 19 Exhibit 18, # 20 Exhibit 19, # 21 Exhibit 20, # 22 Exhibit 21, # 23 Exhibit 22, # 24 Exhibit 23, # 25 Exhibit 24, # 26 Exhibit 25, # 27 Exhibit 26, # 28 Exhibit 27, # 29 Exhibit 28)(Saunders, Sanford) (Entered: 07/06/2010)
08/16/2010	392	MOTION for Extension of Time to File Response/Reply as to 323 MOTION to Dismiss <i>for Fraud on the Court</i> by World Avenue USA, LLC Responses due by 9/2/2010 (Attachments: # 1 Exhibit 1, # 2 Exhibit 2)(Saunders, Sanford) (Entered: 08/16/2010)
08/23/2010	400	MOTION to Quash <i>Fifteen (15) Non-Party Subpoenas For Production of Documents</i> by World Avenue USA, LLC Responses due by 9/10/2010 (Attachments: # 1 Exhibit 15 Non-Party Subpoenas, # 2 Exhibit February 17, 2010 E-Mail By BSI to Direct Brands, Inc., # 3 Exhibit thompson@hypertouch email and opt-in of bogus address, # 4 Exhibit jmuir@hypertouch.com and Lisa FitzGerald Wagner e-mail identifier, # 5 Exhibit Ralsky Indictment, # 6 Exhibit U.S.D.O.J. Press Release of January 2008, # 7 Exhibit Ralsky Docket, # 8 Text of Proposed Order [Proposed] Order Granting Motion)(McManus, John) (Entered: 08/23/2010)
10/21/2010	454	MOTION for Protective Order by World Avenue USA, LLC Responses due by 11/8/2010 (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit

		7, # 8 Exhibit 8)(Saunders, Sanford) (Entered: 10/21/2010)
10/28/2010	473	MOTION for Attorney Fees <i>Application As To Amount Of Attorneys' Fees</i> by World Avenue USA, LLC Responses due by 11/15/2010 (Attachments: # 1 Text of Proposed Order Proposed Order Granting Application As To Amount of Attorneys' Fees)(McManus, John) (Entered: 10/28/2010)
10/28/2010	475	MOTION for Protective Order <i>as to the Notice of Deposition of Douglas Kropp</i> by World Avenue USA, LLC Responses due by 11/15/2010 (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4)(Saunders, Sanford) (Entered: 10/28/2010)
10/29/2010	478	MOTION for Attorney Fees (<i>Application as to Amount</i>) by World Avenue USA, LLC Responses due by 11/15/2010 (Attachments: # 1 Text of Proposed Order)(McManus, John) (Entered: 10/29/2010)
11/10/2010	497	MOTION for Attorney Fees <i>Application As To Amount of Attorneys' Fees</i> by World Avenue USA, LLC Responses due by 11/29/2010 (McManus, John) (Entered: 11/10/2010)
11/11/2010	499	MOTION for Protective Order <i>Regarding the Deposition of Its General Counsel</i> by World Avenue USA, LLC Responses due by 11/29/2010 (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3 (Appleby Declaration), # 4 Exhibit 4 (Saunders Declaration), # 5 Exhibit Local Rule 104 Certificate)(Saunders, Sanford) (Entered: 11/11/2010)
11/12/2010	504	MOTION for Reconsideration re 477 Order, by World Avenue USA, LLC Responses due by 11/29/2010 (Attachments: # 1 Affidavit Fairfax Declaration, # 2 Exhibit 1 Fairfax Decl, # 3 Exhibit 2 Fairfax Decl, # 4 Exhibit 3 Fairfax Decl, # 5 Exhibit 4 Fairfax Decl, # 6 Exhibit 5 Fairfax Decl, # 7 Exhibit 6 Fairfax Decl, # 8 Exhibit 7 Fairfax Decl, # 9 Exhibit 8 Fairfax Decl, # 10 Exhibit 9 Fairfax Decl, # 11 Exhibit 10 Fairfax Decl, # 12 Exhibit 11 Fairfax Decl, # 13 Affidavit Bryant Declaration, # 14 Exhibit 1 Bryant Decl, # 15 Exhibit 2 Bryant Decl)(Saunders, Sanford) (Entered: 11/12/2010)
11/12/2010	505	MOTION Order To Show Cause Why Paul Andrew Wagner And Beyond Systems, Inc. Should Not Be Held In Civil Contempt of Court by World Avenue USA, LLC Responses due by 11/29/2010

		(McManus, John) (Entered: 11/12/2010)
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B. The following Motions are pending by Plaintiff:

08/09/2008	24	MOTION for Leave to File <i>Response to Defendant's Notice of Supplemental Authority</i> by Beyond Systems, Inc. Responses due by 8/26/2008 (Ring, Stephen) (Entered: 08/09/2008)
03/09/2010	177	MOTION for Leave to File <i>Second Amended Complaint</i> by Beyond Systems, Inc. Responses due by 3/26/2010 (Attachments: # 1 Text of Proposed Order, # 2 Second Amended Complaint, # 3 Exhibit 23 (Aff. of Paul Wagner), # 4 Exhibit 38, # 5 Exhibit 39, # 6 Exhibit 40, # 7 Exhibit 41, # 8 Exhibit 42, # 9 Exhibit 43, # 10 Exhibit 44, # 11 Exhibit 45, # 12 Exhibit 46, # 13 Exhibit 47, # 14 Redline Copy Pursuant to L.R. 103.6)(Rothman, Michael) (Entered: 03/09/2010)
04/20/2010	214	MOTION for <i>Determination and Sufficiency of Plaintiff's Initial Expert Disclosures, and/or for Extension of Time</i> by Beyond Systems, Inc. Responses due by 5/7/2010 (Attachments: # 1 Correspondence to counsel)(Ring, Stephen) (Entered: 04/20/2010)
04/26/2010	215	MOTION for Extension of Time to File <i>Service of Summons and Request for Re-Issuance of Summons to Defendant Niuniu Ji</i> by Beyond Systems, Inc. Responses due by 5/13/2010 (Attachments: # 1 Exhibit D-1 (Unclaimed Mail to Ji), # 2 Exhibit D-2 (Select Florida AG Documents), # 3 Exhibit D-3 (Select SoS Documents), # 4 Exhibit D-4, # 5 Text of Proposed Order)(Rothman, Michael) Modified on 4/29/2010 (ranks, Deputy Clerk).(Hard Copy rec'd 4/29/2010 rk) (Entered: 04/26/2010)
06/08/2010	263	MOTION to Dismiss <i>Third-party Complaint by James Joseph Wagner and by Hypertouch, Inc.</i> Responses due by 6/25/2010 (Attachments: # 1 Memorandum in Support, # 2 H1 - Declaration of Joseph Wagner, # 3 H2 - Dunkin Donuts email, # 4 H3 - Order in Kennedy-Western, # 5 H4 - Deposition excerpts, Joseph Wagner, # 6 H5 - Florida Attorney General documents, # 7 H6 - Texas Attorney General documents, # 8 H7 - DOJ press release re Ralsky, # 9 Text of Proposed Order)(Ring, Stephen) Modified on 6/8/2010 (rank, Deputy Clerk).(H4 and H5 are to be resubmitted atty error) Modified on 6/11/2010 (rank, Deputy Clerk).(Hard Copy rec'd 6/11/2010 rk) Modified on 6/11/2010 (ranks, Deputy Clerk). (Entered: 06/08/2010)

07/09/2010	331	Consent MOTION for Extension of Time <i>as to two oppositions</i> by Beyond Systems, Inc. Responses due by 7/26/2010 (Ring, Stephen) (Entered: 07/09/2010)
09/03/2010	408	<i>Motion for Leave to File Sur-Reply, with attached Sur-Reply</i> re 398 Interim MOTION to Seal <i>Unredacted Reply in Support of Motion for Partial Summary Judgment</i> filed by Beyond Systems, Inc.. (Attachments: # 1 Sur-reply)(Ring, Stephen) Modified on 9/8/2010 (elts, Deputy Clerk). (Entered: 09/03/2010)
09/17/2010	421	MOTION for Extension of Time to File Response/Reply as to 400 MOTION to Quash <i>Fifteen (15) Non-Party Subpoenas For Production of Documents</i> MOTION to Quash <i>Fifteen (15) Non-Party Subpoenas For Production of Documents</i> MOTION to Quash <i>Fifteen (15) Non-Party Subpoenas For Production of Documents Nunc Pro Tunc</i> by Beyond Systems, Inc. Responses due by 10/4/2010 (Attachments: # 1 Exhibit A)(Rothman, Michael) (Entered: 09/17/2010)
10/14/2010	449	MOTION for Reconsideration re 444 Order on Motion to Compel, by Beyond Systems, Inc. Responses due by 11/1/2010 (Attachments: # 1 Ex M-1 email to counsel, # 2 Ex M-2 Supplemental responses, financials, # 3 Ex M-3 email to counsel, # 4 Ex M-4 supplementation, P&L statement, # 5 Ex M-5 responses to interrogatories, set 3, # 6 Ex M-6, DE 321 opp to mo to compel)(Ring, Stephen) Hard copies received 10/27/10. Modified on 10/28/2010 (cm, Deputy Clerk). (Entered: 10/14/2010)
10/21/2010	455	MOTION for Reconsideration re 444 Order on Motion to Compel, by Beyond Systems, Inc. Responses due by 11/8/2010 (Ring, Stephen) Hard copies received 10/27/10. Modified on 10/28/2010 (cm, Deputy Clerk). (Entered: 10/21/2010)
10/23/2010	459	MOTION to Correct Misnomer <i>in Amended Complaint at DE 34</i> by Beyond Systems, Inc. Responses due by 11/12/2010 (Attachments: # 1 Attorney General Communications IL, OR, PA, MD, TX, # 2 WAUSA Opposition to Motion to Compel re Plaintiffs Interrogatories Set 2, excerpts, with Exhibits 1 10., # 3 Answer to Complaint, DE 76, excerpts, # 4 DE 85-2 Amended Answer of WAUSA, excerpts)(Ring, Stephen) Hard copies received 10/27/10. Modified on 10/28/2010 (cm, Deputy Clerk). (Entered: 10/23/2010)

10/27/2010	471	MOTION for Protective Order <i>as to depositions</i> by Hypertouch, Inc., James Joseph Wagner Responses due by 11/15/2010 (Attachments: # 1 Notice, Hypertouch, # 2 Topics, Hypertouch, # 3 Notice, J Wagner, # 4 Certificate of Good Faith Efforts, L.R. 104)(Ring, Stephen) (Entered: 10/27/2010)
10/29/2010	480	MOTION for Summary Judgment (<i>Partial</i>) <i>Establishing Defendant World Avenue USA, LLC and TheUseful, LLC as a Single Entity or, in the Alternative, for Entry of an Order of Default against TheUseful, LLC</i> by Beyond Systems, Inc.. Responses due by 11/15/2010 (Attachments: # 1 Memorandum of Law, # 2 Exhibit AA-2 (Affiliate Marketing), # 3 Exhibit AA-3 (WA SoS), # 4 Exhibit AA-4 (WA MTC), # 5 Exhibit AA-5 (WAUSA FL SoS), # 6 Exhibit AA-6 (TheUseful FL SoS), # 7 Exhibit AA-7 (About Us), # 8 Exhibit AA-8 (WA PR FLAG), # 9 Exhibit AA-9 (WA PR TXAG), # 10 Exhibit AA-10 (FL 2nd Amend. Compl), # 11 Exhibit AA-11 (TXAG CID), # 12 Exhibit AA-13 (FLAG 00046), # 13 Exhibit AA-14 (Peterson Depo), # 14 Exhibit AA-15 (Selling Source), # 15 Exhibit AA-16 (Ji Linked In Profile), # 16 Exhibit AA-17 (Mathjobs.org), # 17 Exhibit AA-18 (Richard WAUSA Ltr), # 18 Exhibit AA-19 (FLAG Levine), # 19 Exhibit AA-20 (FLAG Investigation))(Rothman, Michael) (Entered: 10/29/2010)
10/30/2010	481	Local Rule 104 Certificate re Plaintiff's Motion to Compel Defendant WAUSA to Provide Complete Answers to Interrogatories, Set 2. (Attachments: # 1 letter of June 9, 2010, # 2 email August 3, 2010, # 3 letter August 6, 2010, # 4 email August 9, 2010, # 5 letter August 9, 2010, # 6 letter August 10, 2010, # 7 email 1, August 12, 2010, # 8 email 2, August 12, 2010, # 9 email 1, August 31, 2010, # 10 email 2, August 31, 2010, # 11 email October 16, 2010, # 12 email October 24, 2010)(Ring, Stephen) (Entered: 10/30/2010)
10/30/2010	482	Local Rule 104 Certificate, Plaintiff's Motion to Compel Defendant WAUSA to Provide Complete Answers to Interrogatories, Set 2. (Attachments: # 1 Motion to Compel Full Answers to Interrogatories, Set 2, # 2 Memorandum in Support of Motion, # 3 K-1, # 4 K-2, # 5 K-3, # 6 K-4, # 7 K-5, # 8 K-6, # 9 K-7, # 10 K-8, # 11 K-9, # 12 K-10, # 13 K-11, # 14 K-12 sealing notice, # 15 K-13, # 16 K-14, # 17 K-15 sealing notice, # 18 K-16, # 19 K-17 sealing notice, # 20 Interrogatories, Set 2, # 21 WAUSA's Responses to Interrogatories, Set 2, # 22 Defendant's Opposition, # 23 Defendat's Ex 1, # 24 Ex 2, # 25 Ex 3, # 26 Ex 4, # 27 Ex 5, # 28 Ex 6, # 29 Ex 7, # 30 Ex 8, # 31 Ex 9, # 32 Ex 10, # 33 Ex 11, # 34 Ex 12, # 35 Ex 13, # 36 Ex 14, # 37 Ex 15, # 38 Ex 16, # 39 Ex 17, # 40 Ex 18, # 41 Plaintiff's Reply Memorandum)(Ring, Stephen) Hard copies received 11/8/10. Modified on 11/9/2010 (cm, Deputy Clerk). (Entered: 10/30/2010)

10/30/2010	483	Local Rule 104 Certificate, Plaintiff's Motion to Compel Defendant WAUSA to Produce Documents, Set 2. (Attachments: # 1 Plaintiff's Motion to Compel Defendant WAUSA to Produce Documents, Plaintiff's Set 2, # 2 Memorandum in Support of Motion, # 3 Plaintiff's Document Requests, Set 2, # 4 Defendant WAUSA's Responses to Plaintiff's Documents Requests, Set 2, # 5 Defendant's Opposition, # 6 Defendant's Exhibit 1, # 7 Ex 2, # 8 Ex 3, # 9 Ex 4, # 10 Ex 5, # 11 Ex 6, # 12 Ex 7, # 13 Ex 8, # 14 Ex 9, # 15 Ex 10, # 16 Ex 11, # 17 Ex 12, # 18 Ex 13, # 19 Ex 14, # 20 Ex 15, # 21 Ex 16, # 22 Ex 17, # 23 Ex 18, # 24 Plaintiff's Reply Memorandum)(Ring, Stephen) Hard copies received 11/8/10. Modified on 11/9/2010 (cm, Deputy Clerk). (Entered: 10/30/2010)
11/05/2010	489	Interim MOTION to Seal by Beyond Systems, Inc. Responses due by 11/22/2010 (Ring, Stephen) (Entered: 11/05/2010)
11/05/2010	494	Local Rule 104.7 - Motion for Protective Order as to depositions of Plaintiff and Paul A. Wagner. (Attachments: # 1 Motion, # 2 Notice of Deposition)(Ring, Stephen) (Entered: 11/05/2010)
11/10/2010	496	MOTION to Confirm Good Faith Basis for Discovery, Pursuant to Court Orders by Beyond Systems, Inc. Responses due by 11/29/2010 (Attachments: # 1 Memorandum in Support, # 2 Ex 1, Examples of Names Used, # 3 Ex 2, Wagner Affidavit at DE 168, # 4 Ex 3, Wagner Affidavit at DE 177, # 5 Ex 4, Wagner Affidavit at DE 204, # 6 Ex 5, Wagner Affidavit at DE 426-1, # 7 Ex 6, FL AG 774, companies to release, # 8 Ex 7, Order at DE 213, # 9 Ex 8, Order at DE 257, # 10 Ex 9, Order at DE 303, # 11 Ex 10, Order at DE 418, # 12 Ex 11, Docket Entry at 428, # 13 Ex 12, Order at DE 477, # 14 Ex 13, documents from DNS, # 15 Ex 14, subpoena to DNS, # 16 Ex 15, subpoena to Enom, # 17 Ex 16, subpoena to TheUseful, LLC, # 18 Ex 17, amended deposition notice to WAUSA, # 19 Ex 18, Peterson deposition transcript, excerpts, # 20 Ex 19, transcript of hearing of Sept 23, 2010, excerpts, # 21 Ex 20, Holdings name change, # 22 Ex 21, FL AG 3235-36, J. Love, # 23 Ex 22, RBC article on lead generation, DE 34-12, # 24 Ex 23, Harrod deposition excerpts, # 25 Ex 24, Job deposition excerpts, # 26 Rule 104 Certificate of Good Faith Efforts)(Ring, Stephen) (Entered: 11/10/2010)
11/11/2010	500	MOTION for Other Relief - <i>Application as to Amount of Attorney's Fees Pursuant to Order at DE 477</i> - by Beyond Systems, Inc. Responses due by 11/29/2010 (Attachments: # 1 Declaration in Support, # 2 Text of Proposed Order)(Ring, Stephen) (Entered: 11/11/2010)

		11/11/2010)
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C. The following Motions are pending by Non-Parties:

07/06/2010	324	MOTION to Intervene <i>to Access Sealed Materials and for Other Relief</i> , MOTION to Unseal <i>Summary Judgment Motion and Other Materials</i> by Connexus Corp. Responses due by 7/23/2010 (Attachments: # 1 Memorandum of Law, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3)(Rothman, Ari) (Entered: 07/06/2010)
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11/03/2010	486	Joint MOTION for Other Relief <i>To Accept Jurisdiction</i> by World Avenue USA, LLC Responses due by 11/22/2010 (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Text of Proposed Order)(Saunders, Sanford) (Entered: 11/03/2010) ¹
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3. Whether Any Party Intends To File A Dispositive PreTrial Motion.

Defendants have filed a Motion for Partial Summary Judgment that would be dispositive of Count One of the Complaint. Defendants intend to file further dispositive Motions for Summary Judgment once discovery closes.

Plaintiff has filed a Motion for Partial Summary Judgment concerning the relationship between Defendant World Avenue USA, LLC and TheUseful, LLC.

4. Whether The Case Is To Be Tried Jury or Non-Jury And The Anticipated Length of Trial.

The case is to be tried before a jury.

Plaintiff believes its case in chief can be presented in four days, and that cross examination of defendants' witnesses can be accomplished in approximately four hours per witness. Plaintiff believes the entire case should take two weeks to try. The thousands of emails at issue were

¹ The Court granted the Joint Motion at DE 501, but the Motion to Quash filed by Non-Party TheUseful, LLC contained therein remains pending.

generally sent within “campaigns” containing virtually identical advertising content initiated by one marketer or group of marketers per campaign, and thousands of emails per campaign.

Defendants believe that the case will take between three (3) to four (4) months to try, based on the existence of 70,000 separate and distinct claims by BSI.

5. A Certification that the parties have met to conduct settlement negotiations; and the date, time, and place of the meeting and the names of all persons participating therein.

The parties engaged in extensive settlement negotiations from mid-December 2009 through early January 2010. The parties met through counsel on December 31, 2009 to attempt to resolve the case. Present at the meeting was Paul A. Wagner, Steven Wagner, Stephen H. Ring, and Michael Rothman on behalf of Plaintiff, and Sanford M. Saunders, Jr., on behalf of Defendants.

Defendants circulated a revised draft settlement agreement on Tuesday, November 9, 2010 and have offered to meet with Plaintiff to discuss the written proposal during the week on November 15, 2010. Plaintiff is in the process of reviewing the 155-page proposal from Defendant, and is preparing a markup by way of counter-proposal. Several pending filing deadlines have impeded Plaintiff’s review of Defendant’s proposal.

6. Whether each Party Believes It Would Be Helpful To Refer This Case To Another Judge of This Court For A Settlement Or Other ADR Conference, Either Before Or After The Resolution of Any Dispositive PreTrial Motion.

Plaintiff believes that mediation would be useful to determine whether there is a reasonable possibility of settlement.

Defendants are continuing to engage in settlement discussions with Plaintiff. In the event that those negotiations break down, Defendants will alert the Court as to whether a mediation or settlement conference would be helpful.

7. Whether All Parties Consent, Pursuant to 28 U.S.C. § 636(c), To Have A U.S. Magistrate Conduct Any Further Proceedings in This Case, Either Before Or After The Resolution of Any Dispositive Pretrial Motion, Including Trial (Jury or Non-Jury) and Entry of Final Judgment.

Defendants believe that discovery motions and matter should continue to be heard by Magistrate Judge Day. Plaintiff believes that all pending motions and filing deadlines should be stayed to permit a) continuation of settlement talks during the week of November 15, 2010; and failing settlement, b) preparation for oral arguments now set for November 29, 2010.

Defendants oppose the concept of a stay as unnecessary, particularly since Plaintiff previously told Defendants not to even think of asking for a stay of discovery for settlement negotiations. Defendants were not asking for it then and do not consider it appropriate now.

Dated this 15th day of November 2010.

Respectfully submitted,

Stephen H. Ring, Esq.
Stephen H. Ring, P.C.
506 Main Street, Suite 215
Gaithersburg, Maryland 20878
Telephone: (301) 540-8180
Telefax: (301) 563-9639

By: /s Stephen H. Ring, Esq.

--and--

Michael S. Rothman, Esq.
Law Office of Michael S. Rothman
401 East Jefferson Street, Suite 201
Rockville, Maryland 20850
Telephone: (301) 251-9610
Telefax: (301) 251-9610

By: /s Michael S. Rothman

Dated this 15th day of November 2010.

Respectfully submitted,

Sanford M. Saunders, Jr., Esq.
Nicoleta Burlacu, Esq.
Greenberg Traurig, LLP
2101 L Street, NW, Suite 1000
Washington, DC 20037
Telephone: (202) 331-3100
Telefax: (202) 331-3101

By: /s Sanford M. Saunders, Jr., Esq.
Signature by authorization from Mr. Saunders
/s/ Stephen H. Ring
--and--

Kenneth A. Horky, Esq.
John L. McManus, Esq.
Greenberg Traurig, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301
Telephone: (954) 765-0500
Telefax: (954) 765-1477

By: /s John L. McManus
Signature by authorization from Mr. Saunders
/s/ Stephen H. Ring